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REMARKS

Claims 53 and 90-101 are pending in this application and new claims 102-125 are being added herewith. Claims 94 and 97-101 have been cancelled, so claims 53, 90-93, 95-96, and 102-125 are presently being presented in this Response.

Independent claim 53 has been changed from a method claim to a system claim and has incorporated structural limitations including a computer memory and processor. The claim has been further modified and clarified to recite a processor that selects securities based on user defined criteria and combines them to form an exchange traded product that can be traded on an exchange in real time. Support for these modifications can be found generally in the Figures 1A and 1B and paragraphs 40-52 and 55-60 of the Specification, and specifically in paragraphs 41 and 60. Dependent claims 90, 91 and 93 have simply been modified to reflect the change of independent claim 53 to a system claim. Claim 92 adds an accounting system, support for which can be found in paragraph 55 of the Specification, for performing the previously recited calculations. New claims 102-113 are herein presented, all of which depend from independent claim 53.

Independent claim 95 has also been changed from a method claim to a system claim and has incorporated structural limitations including a display and an exchange clearing computer. The claim has been further modified and clarified to recite how the display and the exchange clearing computer can work together to facilitate the real time trading of a product comprised of certain securities. Support for these modifications can be found in Figure 2 and paragraphs 55-57 of the Specification. Dependent claim 96 has simply been modified to reflect the change of independent claim 95 to a system claim. New claims 114-125 are herein presented, all of which depend from independent claim 95.

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In the recent Office Action, the Examiner rejected all pending claims under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,214,579 ("Wolfberg"). Wolfberg teaches a software tool for managing one or more client investment accounts that uses various algorithms to predict when certain financial goals of those accounts will be met given certain inputs. For instance, a client of a financial services company using the system defined by Wolfberg establishes an "initial investment (X₀)," a "monthly payment (Y₀)," a "target goal (M dollars)" and a "timeframe (N years)." (Col. 4, Line 62 – Col. 5, Line 2.) Using these and other variables, a "CPU creates the client investment account." (Col. 6, Line 56). The system comprises various other capabilities such as reviewing incoming deposits (Col. 9, Lines 53-60), reviewing loan requests (Col. 10, Lines 1-15), and decision making regarding when and how a financial services company should interface with the client owner of an account. (e.g., Col. 28, Lines 25-33).

However, Wolfberg does not teach a processor for selecting securities to include in an exchange traded product, shares of which can be traded at a real time determined price, as recited in claim 53. Furthermore, Wolfberg does not provide an exchange clearing computer for processing real-time trades in an exchange traded product, as recited in claim 95. In addition, Wolfberg does not provide a method to account for risk or to otherwise leverage an account as recited in both claims 53 and 95. Accordingly, Wolfberg does not recite all of the elements of independent claims 53 or 95. The Applicant, thus, respectfully submits that Wolfberg cannot anticipate either claim 53 or claim 95 under 35 U.S.C. 102(e). As all other presented claims depend from either claim 53 or claim 95, they incorporate the above mentioned limitations. Therefore, Applicant also submits that Wolfberg cannot anticipate any of the dependent claims. It is, thus, believed that all presented claims are in condition for allowance based on this Amendment.

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In addition to the amendments and comments discussed above, applicant has submitted updated drawings to satisfy the Examiner's stated objection under 37 CFR 1.121(d). It is, thus, believed that the Applicant has addressed all outstanding matters and that all pending claims are allowable.

CONCLUSION

Applicant requests entry of the present amendments and examination of the pending claims. It is believed that no fees are due as a result of this Response. Nevertheless, the Commissioner is authorized to charge any fee deficiency, or credit any overpayments, to Deposit Account No. 502261. The Examiner is invited to contact the undersigned if the Examiner believes a telephone conference would expedite allowance of the present claims and application.

Respectfully submitted,

Dated: November , 2008

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